

# **CAL FIRE's Native American Advisory Council**

## **FINAL Minutes of the April 19, 2018 Meeting**

### **CAL FIRE Sacramento Headquarters**

**(Recorded by Gerrit L. Fenenga)**

**Members Present:** Kevin Gaines; Edward Hadfield (Chair); William Tripp

**Members present via Webinar:** Ann Brierty; Ed Mann (for Tim Hayden)

**Members Absent:** Robert Smith; Tim Hayden; Walt Lara; Gary Walker; Allen Wright

**CAL FIRE Personnel Present:** Helge Eng, Deputy Director Resource Management (afternoon); Matthew Reischman, Assistant Deputy Director Resource Protection and Improvement; Chris Browder, Deputy Chief, Environmental Protection and Archaeology Program Manager; Gerrit Fenenga Senior State Archaeologist; Mike McGuirt, Senior State Archaeologist

**Guest:** Marcella Ernst (United Auburn Indian Community)

1. **Call to Order:** (9:08 am)
  - a. C. Browder handed out CEQA Guideline books to Council members
  - b. Chairman Hadfield opened meeting with thank you to C. Browder for preparing handout materials and making other meeting arrangements. He also thanked CAL FIRE for re-establishing the NAAC and re-iterated its purpose of fostering relationships between Native American tribal people and CAL FIRE. He finished his introductory remarks by reminding us that we are just now entering the fire season, which if like recent years, will be very busy.
2. **The council approved the meeting agenda.**
3. **Approval of Minutes from the January 31, 2018 Meeting:**
  - a. Chairman Hadfield stated they appear to be accurate and correct.
  - b. Bill Tripp said he had one comment that concerned Council Business Item #4x. He wanted to clarify that the Master Mutual Aid agreement template involved more than just mutual aid and that new language was being inserted into the new template to correct this.
  - c. Some minor changes needed:
    - A. Matt Reischman title correction.
    - B. Correct use of Chairman "Hadley" to "Hadfield" throughout when in error.
    - C. Correct term "proactive" in Item 16ciii under Council Business.
  - d. Chris Browder said he would make these corrections.
  - e. Motion to approve (Kevin Gaines); 2<sup>nd</sup> by Bill Tripp.
    - A. All in favor; non-opposed; no abstentions.
  - f. **Motion to Approve Minutes Passed.**

**4. Report of the Cal Fire Deputy Director:**

- a. Matt Reischman reported that this fiscal year \$220,000,000 dollars were apportioned by the legislature from Cap and Trade funds to CAL FIRE for funding projects beneficial to combating climate change. 2014-2017 these were referred to as Greenhouse Gas Reduction Funds and they are geared toward reducing greenhouse gasses.
  - A. This year the Air Resources Board re-branded this to be called the California Climate Initiative.
  - B. \$20,000,000 of these funds are targeted for Urban Forestry projects.
  - C. The remaining \$200,000,000 are for the Forest Health Program, which includes Fuel Breaks, Reforestation, Forest Legacy, and Forest Conservation easements.
    - i. The conservation easements are arrangements with private land owners designed to protect forests by insuring they continue to stay as forests rather than be converted into other uses.
  - D. Acquisition of these funds involves two steps:
    - i. Proponent produces a "Concept Proposal."
    - ii. 70-75 of these were received this year, requesting approximately \$330,000,000.
    - iii. After review of these, CAL FIRE makes an initial selection and sends out a letter to proponents requesting full applications.
      - I. CAL FIRE has done this and is waiting for replies.
      - II. Matt will keep the NAAC informed of the progress of this.
- b. Deputy Director Reischman stated this is the time of year in the legislature for new bills.
  - A. He said there is a lot of interest in prescribed fire due to the past several year's fire events and associated losses and liability issues.
- c. He then commented on CEQA projects regulated by CAL FIRE and that we are working on better tracking of the reviewing process for these.
- d. The Tree Mortality Task Force is continuing its work assessing insect and drought mortality.
- e. Last, he described the Forest Management Task Force, which was mentioned in the Governor's State of the State address. We are currently in the process of developing this program that focuses on forests and the use of wood products. Current work is on regulatory changes that would help streamline forest management activities.
- f. Chief Reischman then asked if there were any questions.
  - A. Chairman Hadfield asked about the end user perspective of Cap and Trade funds. He said he only saw one email announcing this subject and thought that 75 applications seemed like a low number.
    - i. Based on those observations, he asked about the possibility of CAL FIRE developing a better process of notification and outreach.
  - B. Matt Reischman indicated CAL FIRE went through its normal outreach, largely generated through the Internet. There were no TV or radio announcements. He said he would look into this matter further.
- g. Chief Reischman said he had not mentioned the SRA grants projects, but we are hoping to have a call for applications for these very soon.
  - A. He said the intent was to reach as many people as possible and CAL FIRE has had some workshops with attendance of 30-50 people at each.

- B. The greater interest in these is for smaller projects with budgets in the neighborhood of approximately \$5,000,000.
- h. Chairman Hadfield asked how tribal groups in San Diego can access these workshops, or if they could. He said he was only aware of the one workshop and only heard about it in one email. He also said there was no clear point of contact.
  - A. Matt Reischman said he would look into this.
  - B. He then suggested local Fire Safe Council fire prevention grants could be incorporated into larger grants as a means to organize additional workshops.
  - C. Chairman Hadfield indicated a lot of people were concerned about this, especially following the Lilac Fire last year, which was a winter event. The local community was interested in preparedness and prevention and would like to maximize the use of this.
  - D. He went on to compliment CAL FIRE and Chief Eng for his recent interview in Forbes magazine [?].
- i. Ann Brierty thanked Ed Hadfield for bringing this topic up because this information was coming to fire departments, but not to the THPOs or to tribal resource management personnel.
  - A. She suggested that the NAAC might be a vehicle to disseminate information to tribes who do not have fire departments.
- j. Bill Tripp noted the issue of outreach was important but that tribes did not have access to some monies. He said they are eligible for greenhouse gas funds, but there are issues for tribal entities with concerns that extend beyond tribal trust lands.
- k. Matt Reischman offered that this group (NAAC) was good for accessing this type of funding, especially through the CCI (versus SRA funds).
  - A. Chris Browder cautioned the use of the Council may need legal clarification because there are differences in accessing funding.
  - B. Matt stated that SB 859 specifically called out tribal eligibility, which is different than SRA funds.
  - C. Chairman Hadfield said this needs to be clearly spelled out to identify who is eligible.
- l. Chris Browder discussed the workshops conducted last year. He said last year they were coordinated by Joel Vela and were held in May, June, and July in Monte Vista Unit (San Diego), San Bernardino, Riverside, Santa Barbara, Morgan Hill, Sanger, Sonora, Placerville, St. Helena, Redding and Eureka.
  - A. He said there was a delay this year due to the end of the SRA program and its transition to CCI.
  - B. Last year's workshops had decent attendance with good dialogue. Previously unsuccessful applicants discussed CEQA and how they might be more successful next time.
  - C. He said that Scott Witt now runs these and he will send information to tribes in the future. He had not thought of doing this before.
  - D. Chairman Hadfield indicated this was one purpose of this group because they can channel information to the right person.
- m. Bill Tripp brought up developments relating to Native burning. He pointed out there were significant liability issues, but there was progress with strategies being developed by the

national level discussions concerning certain liability issues involving the National Cohesive Wildland Fire Management Strategy and the “3 Strategy Committees.”

- n. Chief Reischman provided a short historical overview wherein there had been three alternative approaches to dealing with prescribed fire and liability issues.
  - A. Purchase insurance.
    - i. Original process, but costs grew over time.
    - ii. CAL FIRE had lead role.
  - B. Indemnify or hold harmless.
    - i. Done when CAL FIRE controlled burn.
  - C. Develop shared liability.
    - i. Cooperative process with tribal roles and CAL FIRE roles (TREX program).
    - ii. Likely where we would go.
    - iii. Hope is to implement these.
- o. Reischman thanked Bill for his comments and ideas.

##### 5. **Report of the CAL FIRE Archaeology Program**

- a. Chris Browder spoke briefly about the program starting with the Certified Archaeological Surveyor training, which he described as “para-archaeologist” training. He noted graduates can access the records from the California Historical Resources Inventory System, commonly referred to as the “Information Centers.” He also noted they can conduct archaeological surveys and prescribe protections for archaeological sites, and that all their work is reviewed by CAL FIRE archaeologists. He then asked Gerrit to discuss the status of the archaeological training program at CAL FIRE.
- b. Gerrit Fenenga reviewed this year’s training, having recently completed a full week class in Los Angeles County and an earlier set of two one-day refresher courses in February. The remaining classes this year will be held in May, October and November in northern California.
  - A. Ann Brierty asked about having Native American monitors take the course since they can use as much archaeology training as they can get to help with their work.
    - i. Gerrit responded that they could enroll in our classes, but that they were directed more towards individuals with little or no background or experience in archaeology. Consequently, there might not be much new information in the classes if the monitors or other resource managers were already involved in this subject in their work.
    - ii. Chris Browder pointed out that there already is a provision in our arrangements with the California Licensed Foresters Association (CLFA) to allow two Native American participants in the class.
  - B. Chris Browder also described how the Certified Archaeologist training is codified in the Forest Practice Rules and is presented as a partnership between CAL FIRE and CLFA, with CAL FIRE being responsible for the course curriculum content and presentation and the CLFA responsible for administration. This arrangement is because CLFA can accept course fees and CAL FIRE as a State agency cannot do this.
    - i. **Chris told the Council he would send out information about attending the course.**
- C. Bill Tripp asked about how the course crossed over with the federal government, which provides its own archaeological training.

- i. Chris explained that the CAL FIRE training is limited to projects on state and private lands where CAL FIRE is the lead agency under CEQA and timber-related work regulated by the Forest Practice Rules. It also can be used where CAL FIRE has a Programmatic Agreement with federal agencies to conduct fuels management projects or other projects where federal funding is attached.
  - ii. There was some follow-up discussion outlining the limitations of the use of the Archaeological Certificate, including the fact that any use of it requires review of the work by a CAL FIRE archaeologist.
- c. Continuing with the report on the archaeology program, Chris brought up the current work being done with Cal Trans on the Highway 20 re-alignment at Camp 20 on Chamberlain Creek at Jackson Demonstration State Forest in Mendocino County. He explained this project would entail impact to a significant archaeological site and that CAL FIRE was working closely with Sherwood Valley Rancheria on this. He also noted there are federal dollars and regulation involved with this and that Mike McGuirt, who has a background and experience in this area, was working with him on this.
- d. The archaeology program review being finished, Chairman Hadfield suggested a 10-minute break and made a motion to do so. Kevin Gaines seconded and the motion passed.
- e. 10:20 Call back to Order

**6. Report of the Native American Heritage Commission**

- a. No representation
  - A. Debbie Treadway was here last time; no one today.
  - B. Chris Browder stated he will make sure they are informed of the meeting next time.**

**7. Helge Eng, Deputy Director, Resource Management arrives.**

- a. Chief Eng's welcome and comments.
  - A. He is very glad the NAAC group is up and running.
  - B. He believes that face-to-face meetings are the best practice.
    - i. These provide for a direct line of communication.
  - C. He gave an example-- the transfer of PG&E lands to the Demonstration State Forest system.
    - i. Involves issues of concern to tribes, both past and present.
    - ii. Provides means for developing constructive relationships.
    - iii. Helps us understand anything we can do to facilitate relationships.
- b. Chairman Hadfield referred again to the article he read in Forbes magazine [?] that quoted Chief Eng. He commended him, especially on his transparency where Helge described mistakes CAL FIRE had made and where we had gone wrong in relation to forest management and fire. He said this perspective was very positive for the state.
  - A. Chief Eng responded that the last 5 years had taught us how little we understand and that is was a good reason to be humble.
  - B. He followed with it was evident there was a well-defined place for traditional knowledge and that this was something that could come out of this group.
- c. Chairman Hadfield said that there is an "appetite" for natural resource protection and people were more sensitive and engaged. He also said there was more concern for cultural issues including spirituality.

- d. Chris Browder reminded us there were two main topics on today's agenda.
    - A. Revising the Tribal Relations Policy.
    - B. Protecting Cultural Resources during fires, including wild fires, controlled fire, and pre-fire planning.
  - e. Helge Eng brought up the Little Hoover Institute's recent comments regarding spiritual development, which is transcending the timber and ranching industries.
    - A. He indicated a "Holistic" approach to management was Natural Resource-centric but this was currently in transition (in relation to cultural values).
    - B. Chairman Hadfield responded that this will be the charge of this Council.
      - i. He noted that Elders speak of the loss of resources, including both spiritual and cultural values.
      - ii. They have expressed a need to "assist" the lands in order that they flourish.
  - f. Chris Browder observed this might be a use of the State Forests.
    - A. Bill Tripp asked where these were located.
      - i. Chris stated they were all over the state and amounted to approximately 70,000 acres in area.
        - I. He mentioned: Jackson SF (50,000 acres); Soquel SF (3,000 acres); LaTour (10,000 acres); and Boggs Mountain (3,500 acres) in Lake County, which burned up in the Valley Fire 2 ½ years ago.
8. Chairman Hadfield indicated it was time to address Item #7 on the agenda, which was the **Geographic Assignments of Native American Advisory Council Members**
- a. He reminded us the original discussion of this topic in January had led to no consensus and that this was important for the Council to insure regional representation for the entire state and for the purposes of outreach. The current make-up of the Council is weighted toward northern and southern portions of the state, with little representation for the central parts, especially the central coast region.
  - b. He suggested there were different ways to approach this including by CAL FIRE's organization into Regions and Units, by Native American tribal or cultural distributions, and by California counties.
    - A. He said he liked the idea of geographic regions and we could work from there.
  - c. Chairman Hadfield stated that we need to solidify general regions and delineate these today.
    - A. Bill Tripp pointed out there is no perfect solution to this problem.
  - d. Chairman Hadfield suggested we might consider OES Regions or CAL FIRE Units.
  - e. Gerrit said that anthropologists divide the state into different cultural areas based on tribal characteristics.
  - f. Bill said we might use linguistic groupings or county groupings.
    - i. Gerrit pointed out that CAL FIRE uses Units for fires, but tribal and county groupings for forestry in contacting tribes.
    - ii. He also noted that there were complexities with using linguistic divisions such as were shown on the map in the handouts because some linguistic families such as the Hokan group was scattered all about the state due to past population movements, while other were concentrated in one area of the state such as the Numic speakers found only in southern California.

- l. Bill added to this noting the presence of several very small, regionally restricted families like the Algonquin and Athabascan speakers found in his area of northwestern California.
  - g. Kevin Gaines and Ed both stated the Council could work with anything that works.
    - A. They both brought up the fact that the Council is an advisory committee to CAL FIRE and for ease of communication its organization might make the most sense.
  - h. After further discussion, it was decided to divide the state into three regions using CAL FIRE Unit boundaries combined with generalized cultural boundaries. The resulting divisions were 1) Northern California including CAL FIRE Units HHU, SKU, LMU, MEU, TGU, and BTU; 2) Central California including LNU, NEU, AEU, MRN, CZU, SCU, TCU, MMU, BEU, FKU, and TUU; and 3) Southern California including SLU, KRN, BDU, SBC, VNC, LAC, ORC, RRU, and MVU.
  - i. Bill Tripp made a motion to accept these divisions, Kevin seconded, all voted in favor, no one opposed, no abstentions. Motion Carried.
  - j. Bill Tripp then suggested that to meet the intent of consultation we should send this out for review and comment.
    - A. Chairman Hadfield agreed saying we have a common purpose to make people aware of the Council as a point of contact, to show its intent and vision, and for assurance of geographic representation.
      - i. He then pointed out this was topic #10 on the agenda "outreach to tribal communities about the Council and its work."
      - ii. He also noted that it appeared that a workable framework was coming together
- 9. Next on the agenda was Item #8: **Goals of the Native American Advisory Council**
  - a. Chairman Hadfield briefly outlined these goals which included revising CAL FIRE's Tribal Relations Policy, Training Opportunities, recommendations for protecting cultural resources during fires, recommendations for cultural burning, and evaluating the California Master Fire Agreement to reflect the Tribal Relations Policy. He also noted there was overlap between some of these topics.
  - b. Chairman Hadfield stated that the Policy was the cornerstone to everything else.
    - A. Chris Browder agreed saying this was the initial framework that set the stage for other things.
    - B. Chairman Hadfield followed, stating he would like the Council to wrap this subject up today and come up with a final draft for approval.
    - C. Chris agreed saying if needed, we can table other things in order to complete this today because of its importance.
      - i. Ed said it was important to consider the "cornerstone" as opposed to the "fluff" and we must address this first.
- 10. Skipped Item #9.
- 11. Item #10 **Outreach to Tribal Communities about the Council and its work.**
  - a. Chris Browder stated he sent an email to Debbie Treadway at the NAHC.
    - A. She was to send message to tribes on list that the Council has met and plans to meet 3 more times this year and to describe plans for outreach.
  - b. He also said he sent out message about the Council to CAL FIRE Units.

12. Skipped Items #11-13.

13. The discussion under #11 segued into **CAL FIRE's Native American Tribal Communities Relations Policy Revision**

- a. Bill Tripp noted that outreach was contingent upon our policy statement because it was dependent upon geographic delineation of contacts for regional representation.
- b. Chris said the Council would make recommendations to CAL FIRE for Executive review in our draft policy document and then tribes would be consulted.
  - A. Matt Reischman noted this would also require a 2<sup>nd</sup> Executive review.
  - B. Chairman Hadfield stated the Council would then make recommendations to the tribal constituents and then forward a final draft for Executive review.
  - C. Matt said we would prepare a "green sheet" for review by lower management.
- c. Chris followed by stating this would require a legal review because it represented a significant policy change and that we may need to change the title.
  - A. Chairman Hadfield suggested we might be better using the term "procedures" instead of "policy."
  - B. Chris said we would have to also look at our charter for clarification.
  - C. Discussion continued with Ed observing this was not binding, but advisory guidelines. Ann said that "procedure" was best fit by legal definition. Mike McGuirt said that the Council would see final version before moving it to Executive Team.
- d. In summation, Chairman Hadfield indicated the Council would take the current 2012 policy, draft an updated version, send this out for tribal input, and bring it back for final summary. Chris added we would: 1) develop a working draft today, 2) send this out to tribes for review, 3) address their comments and amend, and then 4) move it through the Executive Team.
- e. Chris and Chairman Hadfield said that today the best use of time was to go through the entire packet of comments already received from the Council members and get a draft out today for circulation.
  - A. We can approve a draft today for next meeting and put this on the agenda.
  - B. We also need to develop a list of who we propose to send the final draft Policy to.
    - i. The Tribal Chairman's Association was suggested.
- f. Chairman Hadfield made a motion to break for lunch.
  - A. Kevin 2<sup>nd</sup>; motion passed. Time was 11:45.
- g. Post Lunch Call to Order was at 12:35.
- h. A lengthy and detailed review of individual comments Chris had received from the Council members who reviewed the 2012 Policy followed and took up much of the remaining meeting.
  - A. The resulting proposed changes were compiled by Chris Browder, who stated **he would make the agreed-upon modifications and prepare a draft for use at the August Council meeting.**
- i. After the revising and wordsmithing of the Tribal Policy, Chairman Hadfield stated that this work today was "epic" in terms of modernizing the policy document. He further said that it was important to understand it was based on the "intent" of the NAAC as it proceeds on through review.



- j. In summary, the afternoon session: 1) went through all the comments made by the Council members who had reviewed the 2012 tribal policy, 2) a draft with the revised language will be prepared by Chris Browder, 3) Chris will transmit the draft to the Council for any further comments, 4) it will then be finalized at the next council meeting, 4) it will move forward with a “push” out to Native American community leaders for their comments and corrections, 5) these will be reviewed and the document amended at the following NAAC meeting, and 6) should be in the final draft by the 1st NAAC meeting of 2019 for moving on to CAL FIRE’s Legal and Executive staff for approval.
  - k. **Chris Browder indicated he would contact the new liaison for the Governor’s Tribal Relations Office and request a list of who should review it.**
  - l. It was decided no vote was needed to approve this.
  - m. Ann Brierty noted the purpose and intent of the policy was to be used by tribal governments and by CAL FIRE to foster relationships and how both see cultural resources in emergencies in relation to “spiritual bonding.” She also reminded the Council that tribal elders “still tell those stories.”
12. As new business, Chris Browder brought up the issue that there is need for recruitment of the Council is not fully represented, suggested some individual who might be good candidates, and asked the Council to consider this for the next meeting.
13. Chairman Hadfield moved to adjourn the meeting.
- a. Kevin Gaines 2<sup>nd</sup> the motion.
  - b. All were in favor.
  - c. Meeting adjourned at 3:30.